IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1845 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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DILIPBHAI LAXMANBHAI CHAVDA & 8 - Applicant(s)
Versus
STATE OF GUJARAT - Respondent(s)

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Appearance :
MR PM LAKHANI for Applicant(s) : 1 - 9.MRS RP LAKHANI for Applicant(s) : 1 - 9.MR RI SHARMA for Applicant(s) : 1 - 9.
MR M.R.MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 28/09/2007

ORAL JUDGMENT

Rule. Mr.M.R.Mengdey, learned APP waives

service of rule on behalf of respondent No.1.

2. By way of this petition under Article 226 of the Constitution of India read with Section 482 of the Criminal Procedure Code, the petitioners – original accused have prayed for an appropriate Writ, direction or order directing the learned Principal Sessions Judge, Kutchh at Bhuj and learned trial Court for expeditious and early disposal of Criminal Misc. Application No. 165 of 2007.

3. It is the case on behalf of the petitioners that they were arrested in connection with complaint being CR No.I – 312/2006 registered with Anjar Police Station (Kutch District) for the offences punishable under Sections 302, 395, 397, 142, 147, 148, 149 120(b) of the Indian Penal Code and Section 135 of the Bombay Police Act and; that they were arrested on 08.01.2007. It is their case that they have not submitted any application for bail. The Police submitted charge-sheet against the petitioners and thereafter, the case was committed to the Court of Sessions under Section 209 of the Criminal Procedure Code and same has been registered with the learned

Sessions Court of Kutch District at Bhuj as Sessions Case No.18 of 2007. It is the case on behalf of the petitioners that thereafter, the matter has been adjourned time and again on number of occasions for framing the charges. But for one reason or other, the prosecution and the original complainant have prayed for time/ adjournment and therefore, charges are not yet framed by the concerned learned Trial Court at Anjar. It is further submitted that infact aforesaid criminal case was before the learned Presiding Officer, Fast Track Court, Anjar, however, the complainant submitted application before the learned Principal Sessions Judge, Bhuj for transfer of the said case from him and the said application is numbered as Criminal Misc.Application No. 165 of 2007 which is pending before the learned Principal Sessions, Judge, Kutch. It is submitted by the petitioners that though initially the petitioners filed reply objecting to the said application, however, vide pursis dated 29.08.2007 they have given their no objection if the case is transferred to any other Court from the Court where the case is pending. Under the circumstances, it is requested to grant

relief as prayed by directing the learned Principal Sessions Judge, Kutch at Bhuj to decide and dispose of the Criminal Case No. 165 of 2007 which is submitted by the original complainant for transfer of the case from the learned Presiding Officer, Fast Track Court, Anjar.

4. In the facts and circumstances of the case, when the petitioners – original accused have even submitted pursis dated 29.08.2007 that they have no objection if the Sessions Case No.18 of 2007 is transferred from the Court where it is pending, learned Principal Sessions Judge, Kutch at Bhuj is directed to decide and dispose of Criminal Misc.Application No. 165 of 2007 within a period of 2(two) weeks from the date of receipt of this order and take appropriate decision even considering the pursis dated 29.08.2007 submitted by the petitioners whether to transfer the Sessions Case No.18 of 2007 or not and; that thereafter, the Court before whom the said Sessions Case is transferred, is directed to frame the charges as early as possible within a period of 4(four) weeks from the date on which the

sessions case is transferred to the said Court. Rule is made absolute to the aforesaid extent. Direct service is permitted.

[M.R.Shah, J.]

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